IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 27TH JUNE 2007 / 6TH ASHADHA 1929

WP(C).No. 19664 of 2007(N)

AGAINST THE ORDER IN EP.24/2004 IN
OS.43/2002 of SUB COURT, PALA

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PETITIONER:

M.N.MOHANAN, S/O NARAYANAN,
MANIPUZHA HOUSE, PUTHENCHANTHA,
MUNDAKAYAM.

BY ADV. SRI.S.MOHANAN
SRI.R.REJI

RESPONDENTS:

STATE BANK OF TRAVANCORE,
MUNDAKAYAM BRANCH REPRESENTED BY THE
BRANCH MANAGER, STATE BANK OF TRAVANCORE,
MUNDAKAYAM BRANCH.

BY SC SRI.R.S.KALKURA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN,J

W.P.(C) NO.19664 of 2007

Dated this the 27th day of June, 2007

JUDGMENT

This writ petition is filed to set aside the sale proceeding dated 8.6.2007. On an earlier occasion when the matter was posted for sale of the mortgaged property, the present writ petitioner approached this court as W.P.(C)18383/2006 and this court after hearing both sides granted permission to the judgment debtor to pay the entire balance decree debt in 10 equal monthly instalments and the first instalment due to commence on 12.2.2007. This court also made it clear that if the petitioner commits default in payment of two instalments, executing court is to proceed with the mortgage of the sale of the property or in other words when there is non-compliance of the order of this court, a mandate is given to the executing court to proceed with the sale. That is precisely done by the court below in substantial compliance with the order of this court. Therefore

attempting to raise contentions for the purpose of postponing the matter cannot be entertained, and therefore, the writ petition is dismissed. But, however, it is made clear that if the decree holder agrees for giving some time to the judgment debtor to wipe off the liability as a whole, the court may consider that request and for that purpose the petitioner is permitted to move an application before the executing court.

M.N.KRISHNAN, JUDGE

CSS